

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ELIZABETH M. VAUGHN *
Plaintiff, *
v. * CIVIL ACTION
* NO. 05-11523-JLT
* BBO NO. 198580
INVESTORS MARKETING SERVICES, INC., *
INVESTORS CAPITAL HOLDINGS, LTD., *
INVESTORS CAPITAL CORP., JANICE *
CHARLES, and THEODORE CHARLES *
Defendants. *

**MOTION TO DISMISS OF DEFENDANTS INVESTORS
MARKETING SERVICES, INC. AND JANICE CHARLES**

The Defendants, Investors Marketing Services, Inc. ("IMS") and Janice Charles ("Ms. Charles"), pursuant to F.R.C.P. 12(b)(1) and 12(b)(6), move that the Court dismiss the Complaint of the Plaintiff, Elizabeth Vaughn ("Ms. Vaughn"), on the grounds that the Court lacks jurisdiction over the subject matter in the Complaint in that the defendants IMS and Ms. Charles are not covered employers under the Family and Medical Leave Act ("FMLA"),¹ and the Complaint fails to state claims upon which relief may be granted.

The Defendants, IMS and Ms. Charles, respectfully move that this Court dismiss this action and award the Defendants IMS and Ms. Charles their costs, including

¹ 29 U.S.C. §2601 et seq.

reasonable attorney's fees incurred in obtaining the dismissal.

In support of this motion, the Defendants IMS and Ms. Charles plaintiffs rely upon their memorandum in support of their motion to dismiss.

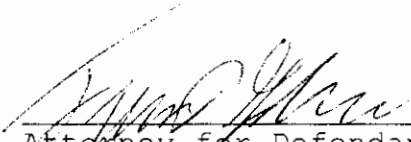
DEFENDANTS' REQUEST FOR ORAL ARGUMENT

The Defendants, IMS and Ms. Charles, pursuant to Local Rule 7.1(D) request oral argument on their motion to dismiss.

LOCAL RULE 7.1 CERTIFICATION

I, Frederick T. Golder certify that I conferred with opposing counsel before filing this Motion in an effort to resolve or narrow the issues presented.

By their attorney



Attorney for Defendants
Investors Marketing Services, Inc.
and Janice Charles
Frederick T. Golder
BBO NO. 198580
P.O. Box 232
Lynnfield, MA 01940
(781) 334-4284

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail (by hand) on 9/23/2005

